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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

4  
**Oct 23, 2020**  
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SEAN F. MCVOY, CLERK

6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF WASHINGTON  
8

9 SARINA PIRKEY, an individual,

10 Plaintiff,

11 v.

12 SCHWEITZER ENGINEERING  
13 LABORATORIES, INC., a Washington  
14 Corporation; SCHWEITZER  
15 ENGINEERING LABORATORIES, INC.  
16 EMPLOYEE STOCK OWNERSHIP  
17 PLAN; JOSEPH NESTEGARD,  
18 individually and as Plan Administrator;  
19 JANE DOE NESTEGARD; MICHELE  
20 BEEHLER, individually and as Plan  
21 Administrator; STACEY DOTY,  
22 individually and as Plan Administrator;  
23 JOHN DOE DOTY; CONNEE  
24 ROVEGNO, individually and as Plan  
25 Administrator; and JOHN/JANE DOES 1-  
26 99;

27 Defendants.  
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No. 2:20-CV-00211-SAB

**ORDER GRANTING MOTION  
FOR LEAVE OF COURT TO  
AMEND THE COMPLAINT;  
DENYING MOTIONS AS MOOT**

**ORDER GRANTING MOTION FOR LEAVE OF COURT TO AMEND  
THE COMPLAINT; DENYING MOTIONS AS MOOT \* 1**

1 Before the Court is Plaintiff's Motion for Leave of Court to Amend the  
 2 Complaint, ECF No. 15. The Motion was considered without oral argument.  
 3 Defendants have not timely objected to the request and are assumed to consent to  
 4 Plaintiff's motion. *See* LCivR 7(e). Pursuant to the liberal standard of Fed. R. Civ.  
 5 P. 15(a)(2), the Court finds good cause to grant the motion.

6 The Court also notes that Plaintiff has filed a Motion for Judgment on the  
 7 Pleadings as to Plaintiff's Status as an Alternate Payee, ECF No. 14, and a Motion  
 8 for Partial Summary Judgment, ECF No. 16. However, both motions seek a  
 9 judgment on the basis of the original complaint, ECF No. 1, and Defendants'  
 10 original answer, ECF No. 5, rather than on the basis of the First Amended  
 11 Complaint and Defendants' soon-to-be-filed answer. Upon filing, an amended  
 12 complaint supersedes a previously filed complaint in its entirety and renders it null.  
 13 *Ramirez v. Cty. of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015); *see also*  
 14 *Rocha v. Caliber Collision Transp. Services, LLC*, No. CV 17-06876-AB (JPRx),  
 15 2017 WL 8948066, at \*2 (C.D. Cal. Nov. 30, 2017) (dismissing motion for  
 16 judgment on the pleadings as moot based on the plaintiff's attempt to file an  
 17 amended complaint). In addition, Plaintiff's motion for judgment on the pleadings  
 18 is premature, as those motions may not be filed until *after* the pleadings are closed.  
 19 Fed. R. Civ. P. 12(c). Because the First Amended Complaint is now the operative  
 20 complaint in this case, Plaintiff's Motion for Judgment on the Pleadings and  
 21 Plaintiff's Motion for Partial Summary Judgment are moot. Those motions are  
 22 therefore denied.

23 Accordingly, **IT IS ORDERED:**

24 1. Plaintiff's Motion to Amend Complaint, ECF No. 15, is **GRANTED**.

25 Plaintiff is granted leave to file her First Amended Complaint, ECF No. 15-1,  
 26 along with accompanying exhibits, ECF Nos. 15-2–15-9.

27 2. Defendants shall have **twenty-one (21) days** after the filing of Plaintiffs'  
 28 First Amended Complaint to file any response thereto.

**ORDER GRANTING MOTION FOR LEAVE OF COURT TO AMEND  
 THE COMPLAINT; DENYING MOTIONS AS MOOT \* 2**

1       3. Plaintiff's Motion for Judgment on the Pleadings as to Plaintiff's Status as  
2 an Alternate Payee, ECF No. 14, is **denied as moot** and **without prejudice**.

3 Plaintiff may file a motion for judgment on the pleadings if she so desires on the  
4 basis of the First Amended Complaint.

5       4. Plaintiff's Motion for Partial Summary Judgment, ECF No. 16, is **denied**  
6 **as moot** and **without prejudice**. Plaintiff may file a motion for summary judgment  
7 if she so desires on the basis of the First Amended Complaint.

8       5. The parties' Stipulated Motion to Continue Plaintiff's Motion for Partial  
9 Summary Judgment and for Relief from Briefing Deadlines, ECF No. 20, is **denied**  
10 **as moot**.

11       **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter  
12 this Order, provide copies to counsel, and **docket** Plaintiff's First Amended  
13 Complaint, located at ECF No. 15-1, and related exhibits, located at ECF Nos.  
14 15-2-15-9.

15       **DATED** this 23rd day of October 2020.



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19       Stanley A. Bastian

20       Stanley A. Bastian  
21       Chief United States District Judge  
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**ORDER GRANTING MOTION FOR LEAVE OF COURT TO AMEND  
THE COMPLAINT; DENYING MOTIONS AS MOOT \* 3**